

BATTELLE MEMORIAL INSTITUTE
PACIFIC NORTHWEST DIVISION

SAMPLE BASIC ORDERING AGREEMENT NO. SAMPLE

I. RECITALS

The following parties are the Battelle Memorial Institute, Pacific Northwest Division, an Ohio Corporation with principal offices in Columbus, Ohio (hereinafter called "Battelle"), and _____, a corporation located in _____, (hereinafter called "Contractor").

This Agreement is made for the procurement of services needed in connection with Battelle's management, operation and maintenance of the U.S. Department of Energy's Pacific Northwest National Laboratory in Richland, Washington, under Contract DE-AC06-76RL01830.

Battelle and the Contractor agree as follows:

This is a Basic Ordering Agreement to provide a direct ordering mechanism for volume purchases of high-efficiency unitary air conditioners by the multi-family housing industry, universities, governmental entities, restaurants, hotels/motels, public housing, industrial, warehousing, and other large purchasers and their suppliers, including utilities providing air conditioning products to their customers.

Battelle reserves the right to discontinue this Agreement's future applicability upon thirty (30) days written notice.

II. AGREEMENTS

1. Basic Ordering Agreement Date: The Agreement date shall be the latter of either the Battelle representative or the Contractor representative's signature dates in Article III.
2. Ordering Period: Orders may be issued from the Agreement date through a date exactly twelve (12) months later. An optional six (6) months may be added if mutually agreed upon by Battelle and Contractor. Prior to the extension, price and other terms and conditions may be reviewed and renegotiated.
3. Fixed Unit Delivered Price: The following air conditioners have been selected for award and shall not exceed the maximum fixed unit prices listed below:

Model:**Maximum Fixed Unit Price**

Model No.	_____	\$	_____
Model No.	_____	\$	_____
Model No.	_____	\$	_____

4. New Air Conditioner Submittal Process: Submission of new air conditioners is encouraged during the Agreement period. New air conditioners can be submitted at any time during the first eighteen (18) months of the Agreement. A proposal must be sent to the Battelle Contracting Officer describing the air conditioner, including the product number and all information required in Request for Proposal No. 411408, Enclosure 2, "Data to be Submitted with the Proposal." Three (3) signed copies of the submission must be included with the proposal.

Note: These air conditioners will be evaluated using the evaluation criteria set forth in Request For Proposal No. 411408, Enclosure 4, "Evaluation Criteria," and they must score at least as well as the existing product(s) in this Agreement. Additional acceptance criteria may be instituted at the sole discretion of Battelle. Battelle will determine whether to permit these additions or substitutions under the Agreement, on the basis of whether such additions or substitutions appear to be in the best interests of the Buyers, and the supplier's past performance under the Agreement (e.g., experience to date with the Contractor's product performance, delivery record, and related services).

5. Delivery: Shipment of the product shall be within seven (7) calendar days upon acceptance of delivery order for fewer than five (5) units by the Contractor. Delivery of five (5) units or more shall be scheduled by mutual agreement between the Buyer and the Contractor. Delivery shall be prepaid, FOB Origin, Full Freight Allowed, with title and risk passing to Buyer upon shipment.

6. Change Orders: No communication, written or oral, from any person other than a Battelle Contracts Representative, shall constitute a change order in accordance with this Basic Ordering Agreement.

7. Responsibility: Delivery orders under this BOA shall be made in the name of the Contractor and Buyer, and shall not bind nor purport to bind Battelle to any contractual obligation.

8. Delivery Order Form: Orders issued during the ordering period of this Agreement and not completed within that time shall be completed by the Contractor within the time specified in the order, and the rights and obligations of the Contractor and Battelle respecting those orders shall be governed by the terms of the Agreement to the same extent as if completed during the ordering period.

9. Reporting: The Contractor shall report *via* electronic mail to Battelle sales data pertaining to delivery orders issued under this master agreement. The Contractor shall deliver a report to Battelle by the third (3rd) working day of each month that includes the following:

Number of air conditioners shipped in the previous month, by model

Number of air conditioners acquired through this program that were serviced or replaced under warranty

For each order received, the Contractor shall use their best effort to collect and maintain, for occasional (no more than twice per year) reporting purposes, the following:

Type of company placing order:

Builder

Retailer

Wholesaler

Government (federal, state, city)

Other

Battelle will provide an electronic spreadsheet template to track the requisite information for the monthly and occasional reporting requirements.

10. Agreement Modifications: This Agreement contains the entire understanding between the parties, and there are no understandings or representations not set forth or incorporated by reference herein. No communication, written or oral, by other than a Battelle Contracts Representative shall be effective to modify or otherwise affect the provisions of the Agreement.

11. Agreement Contents: In addition to this Schedule, the Agreement consists of:

- Statement of Work
- Representations and Certifications
- Contractor Proposal

12. Third Party Beneficiaries: The Contractor acknowledges that this Agreement is for the benefit of the aforementioned buying entities. Therefore, except as expressly provided herein, the Contractor shall look solely to such Buyers for the receipt of funds for any items purchased, and shall hold Battelle harmless for any loss or claim of loss in connection with any such transaction.

III. SIGNATURES

BATTELLE MEMORIAL INSTITUTE
PACIFIC NORTHWEST DIVISON

By_____

By_____

Title_____

Title_____

Date_____

Date_____

CONTRACTOR

By_____

By_____

Title_____

Title_____

Date_____

Date_____